

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

SUE EATON,)
)
Plaintiff,)
)
v.) No. _____
)
COMBINED INSURANCE COMPANY)
OF AMERICA)
)
Defendant.)

NOTICE OF REMOVAL

Defendant Combined Insurance Company of America ("Combined" or "Defendant"), by and through counsel, files this Notice of Removal pursuant to 28 U.S.C. §§1441 and 1446, to hereby remove this action from the Circuit Court of McMinn County, Tennessee, Civil Division, to the United States District Court for the Eastern District of Tennessee at Knoxville. The grounds for removal of this action are as follows:

1. On or about September 23, 2016, Plaintiff Sue Eaton filed a Complaint in the Circuit Court of McMinn County, Tennessee, Civil Division. The United States District Court for the Eastern District of Tennessee at Knoxville is, therefore, the district court of the United States for the district and division embracing the place where Plaintiff's civil action is pending. *See* 28 U.S.C. § 1441(a).

2. Defendant was served with a Summons and Copy of Plaintiff's Compliant via certified mail on December 12, 2016. Pursuant to 28 U.S.C. § 1446(a), true and exact copies of all process and pleadings served upon Combined are attached hereto as **EXHIBIT 1**.

3. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal must be filed within thirty (30) days of service of the Complaint and Summons upon Defendant. Since Defendant was served on December 12, 2016, removal is timely.

4. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a), as complete diversity of citizenship exists between Plaintiff and Defendant and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs. "Diversity of citizenship . . . exists only when no plaintiff and no defendant are citizens of the same state." *Curry v. U.S. Bulk Transport, Inc.*, 462 F.3d 536, 539 (6th Cir. 2006). Complete diversity exists between the parties in this action.

5. As alleged in this Complaint, Plaintiff is a citizen and resident of McMinn County, Tennessee. Complaint, ¶ 1. Defendant is an Illinois corporation with its principal place of business in Glenview, Illinois. Thus, Defendant is a citizen of Illinois. *See* 28 U.S.C. § 1332(c)(1) (providing that for the purpose of removal, a corporation is deemed to be a citizen of the state "by which it has been incorporated" and the state "where it has its principal place of business"). Because Plaintiff is a citizen of Tennessee and Defendant is a citizen of Illinois, complete diversity exists between the parties.

6. The amount in controversy requirement of 28 U.S.C. § 1332 is also satisfied. Where federal jurisdiction is based on diversity of citizenship under 28 U.S.C. § 1332(a), the amount in controversy must exceed \$75,000, exclusive of interest and costs.

7. Here, the face of the Complaint clearly demonstrates that the amount in controversy exceeds the jurisdictional minimum. The Complaint alleges that "Plaintiff prays that the Court award a money judgment in favor of the Plaintiff and against the Defendant in the amount of seventy-one thousand, five hundred dollars (\$71,500)." Complaint, Prayer for Relief ¶ 1. Additionally, the Complaint also seeks punitive damages in the amount of one hundred thousand dollars (\$100,000). Complaint, Prayer for Relief ¶ 6. Collectively, Plaintiff seeks damages in the amount of one-hundred seventy-one thousand, five hundred dollars (\$171,500).

8. Because both requirements for diversity jurisdiction are satisfied, this action is removable by Defendant. *See* 28 U.S.C. § 1332.

9. Pursuant to 28 U.S.C. § 1446(d), Defendant will promptly give Plaintiff written notice of the filling of the Notice of Removal and will file a copy of this Notice of Removal with the clerk of the Circuit Court of McMinn, County, Tennessee, Civil Division. A true and correct copy of the Notice of Filing of Notice of Removal Defendants is filing with the Circuit Court of McMinn County, Civil Division, is attached hereto as **EXHIBIT 2.**

10. By filing this Notice of Removal in this matter, Defendant does not waive its right to object to service of process, the sufficiency of process, jurisdiction, or venue. Defendant specifically reserves its right to assert any defenses and/or objections to which it may be entitled.

WHEREFORE, Defendant removes this action for the Circuit Court of McMinn, County, Tennessee, Civil Division, to the United States District Court of the Eastern District of Tennessee at Knoxville.

Respectfully submitted,

BAKER, DONELSON, BEARMAN
CALDWELL & BERKOWITZ, P.C.

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Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I have on this 10th day of January, 2017, caused a copy of the foregoing **Notice of Removal** to be filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

A true and exact copy of the foregoing document has also been served upon the following:

Charles W. Pope, Jr.
1510 Stuart Road, Suite 107
Cleveland, TN 37312

by placing the same in the United States Mail, first-class postage prepaid on this 10th day of January, 2017.

s / Jamie Ballinger-Holden
Attorney